

# CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

## BILL ANALYSIS

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### **Senate Bill 1746**

**Senator Polanco (As amended 4/16/02)**

### **Position:**

**No Position**

### **Proponents:**

**Author (Sponsor)**

### **Opponents:**

**None known**

## **SUMMARY**

Senate Bill 1746 permits an elected official of a local agency to be appointed to the Teachers' Retirement Board (Board) if he or she also meets the requirements for appointment as an officer of a bank or savings and loan institution. In addition, it deletes the requirement that the officer's investment experience be professional experience.

## **LEGISLATIVE HISTORY**

SB 1580 (Burton—2002) requires the four members of the Board that are appointed by the Governor to represent active and retired California State Teachers' Retirement System (CalSTRS) members to instead be elected by the members of the constituent group to which they belong.

AB 311 (Honda—2000) would have expanded the Board from 12 to 15 members and required the three additional Board members to be elected by the CalSTRS members of the group to which they belong.

AB 2768 (Assembly PER&SS—1998) would have required that the four "teacher" members of the Board be elected to the Board from their respective constituencies rather than appointed by the Governor.

## **CURRENT PRACTICE**

Under existing law, CalSTRS Defined Benefit (DB) Program and the Cash Balance (CB) Benefit Program are administered by the 12-member Board.

Two of the 12 members of the Board must be CalSTRS members who are classroom teachers in kindergarten or grades 1 through 12, and another member must be a retired member of the System. A fourth member must be a school board member or a community college trustee. All four of these members are appointed by the Governor for 4-year terms from a list submitted by the Superintendent of Public Instruction.

Another member of the Board is required to be a community college instructor with expertise in business or economics or both, and is appointed by the Governor for a four-year term from a list submitted by the Board of Governors of the California Community Colleges.

One member of the Board is required to be an officer of a life insurance company and one member of the Board is required to be an officer of a bank or savings and loan institution. The seat on the Board reserved for a bank or savings and loan officer has been vacant since November 1998. An eighth member of the Board represents the public. The Governor appoints these members for four-year terms, subject to confirmation by the Senate. The remaining four members, the Director of the Department of Finance, the Superintendent of Public Instruction, the Controller and the Treasurer, are on the Board by virtue of their state office.

## **DISCUSSION**

Senate Bill 1746:

- Authorizes the Governor to appoint to the Board an officer of a bank or savings and loan institution who is also an elected official of a local agency.
- Deletes the requirement that the investment experience possessed by an officer of a bank or savings and loan institution appointed to the Board must be professional experience.
- The bill would make a specified statement of legislative intent regarding the eligibility of individuals appointed as members of pension fund boards.

“It is the intent of the Legislature in enacting this act to assure that all qualified Californians are eligible to participate in pension fund management. To randomly deny elected officials the ability to participate simply because of an unspecified potential of incompatibility, could deprive pension funds of some of the public's best money managers. It is the intent of the Legislature that each nominee for a position as a member of a retirement board be judged on his or her individual qualifications and, if appointed to a pension fund board, abstain from voting on matters that directly impact his or her elected jurisdiction, which would cure any potential clash between the two offices as implied by the doctrine of incompatibility of public offices.”

According to the author, this bill would clarify that there is no inherent conflict in having an elected local official serve on the Board if he or she also meets the requirements for appointment as an officer of a bank or savings and loan institution. It should be noted, however, that this bill does not extend this same authority with respect to the life insurance official or the public member, who are also appointed by the Governor.

The Teachers' Retirement Law (TRL) does not prevent a person serving on the Board in the position reserved for a bank officer from also being an elected local official because, so long as that member of the Board carries out his or her fiduciary duties correctly, no conflict exists. Moreover, staff is unaware of any other state law that would prohibit a locally elected official

from being appointed to the Board. While SB 1746 attempts to address the appearance of some unidentified conflict in the TRL, it does not affect prohibitions that may be contained in city charters and other similar local provisions that apply to elected officials who might otherwise be appointed to the Board.

According to staff in the Attorney General's (AG) office, conflict of interest standards primarily result from court judgements and are not necessarily found in statute. Adding this provision to existing law may shield an elected local official serving in the Board's bank officer position from future lawsuits that allege a conflict. CalSTRS staff continues to research selected court cases, official AG opinions, and California statutes to determine the full impact of SB 1746 as it relates to this issue.

Current law requires the appointee to have five years "broad professional investment experience handling various asset classes such as stocks, bonds, and mortgage investments." SB 728 would no longer require that experience to have been gathered in a "professional" environment. Presumably, any bank officer who managed their own personal investment funds in some manner, including through a diversified portfolio of mutual funds, would qualify as having "broad investment experience".

## **FISCAL IMPACT**

Benefit Program Costs – None

Administrative Costs – None

## **BOARD POSITION**

No Position. As a matter of policy, the Board does not take positions on legislation affecting its selection or composition.